

David W. Wessel, Esq. Bar # 115222
service@efronlawfirm.com
LAW OFFICES OF BORIS E. EFRON
130 Portola Road
Portola Valley, CA 94028-7825
Telephone: (650) 851-8880
Facsimile: (650) 851-3001

Attorneys for Creditors
MARINA GELMAN and MIKHAIL GELMAN

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION,

-and-

PACIFIC GAS AND ELECTRIC COMPANY,

Debtors.

- ☐ Affects PG&E Corporation
☒ Affects Pacific Gas and Electric Company
☐ Affects both Debtors

* All papers shall be filed in the Lead Case,
No. 19-3008 (DM).

Case No. 19-30088 (DM)

Chapter 11

(Lead Case - Jointly Administered)

**MARINA AND MIKHAIL GELMAN'S
SUPPLEMENT TO THEIR MOTION FOR
RELIEF FROM AUTOMATIC STAY AND
ABSTENTION PURSUANT TO 28 U.S.C.
1334(c)(1); OBJECTION TO THE
BANKRUPTCY COURT ADJUDICATING
MOVANTS' PERSONAL INJURY
CLAIMS**

Date: September 10, 2019

Time: 9:30 a.m.

Ctrm: Hon. Dennis Montali

450 Golden Gate Avenue

16th Floor, Courtroom 17

San Francisco, CA 94102

Reply Deadline: September 5, 2019
At 4:00 Pacific Time

1 Cause exists to grant Mikhail Gelman and Marina Gelman relief from stay to prosecute their
2 claims resulting from PG&E's negligence to a just resolution. Here a speedy resolution is essential
3 to a just resolution. Mikhail Gelman is 77, and he will be 78 in less than three months. He was born
4 in Russia on November 6, 1941. (See Declaration of David W. Wessel ["Wessel Declaration"]
5 submitted in support of the Gelmans' Supplement to their Motion for Relief from Automatic Stay.)
6 Mikhail Gelman is in poor health. (See Wessel Declaration.)

7 Mr. Gelman is one of the two plaintiffs in *Gelman v. Pacific Gas & Electric Company* in the
8 San Francisco County Superior Court. Therefore he has a substantial interest in the action. He is
9 entitled to statutory preference pursuant to state procedural law. *See* Cal. Civ. Proc. Code § 36
10 (West). On his petition for preference, should it meet the standards set out in C.C.P § 36, the San
11 Francisco County Superior Court must set the case for trial no more than 120 days after granting the
12 petition. A trial in the Superior Court action is likely to commence in an expeditious fashion once
13 the preference determination has been made. Thus, the interest of judicial economy and an
14 expeditious determination will be served by granting relief from stay.

15 This Superior Court litigation will not interfere with the bankruptcy case. The Superior Court
16 is well suited for dealing efficiently and economically with the Gelmans' proceeding, which consists
17 entirely of state law issues. There is nothing to show that other creditors would be prejudiced if relief
18 were granted to Mikhail Gelman and Marina Gelman. They filed their action in January, 2017, prior
19 to the bankruptcy filing. Much of the pretrial activity has been completed. The Gelmans'
20 depositions have been taken. Marina Gelman has undergone a physical examination. The trial was
21 set previously, continued once, and then continued again until December, 2019. The Gelmans' action
22 was on schedule for resolution by the end of this year, and could still be resolved by year end if this
23 Court were simply to let it happen.

24 This Court in its May 12, 2019 Memorandum Decision on the Gelmans' motion for relief
25 from stay said that nothing prevents the Gelmans from severing their action and proceeding
26 separately against the other defendants. However, the risk of inconsistent outcomes prevents the
27 Gelmans from doing that. Defendants City and County and Blue Plantain would point the finger at
28 PG&E in the Superior Court trial, and PG&E would point the finger at the City & County and Blue

1 Plantain in the District Court trial. The cost of two trials and the risk of inconsistent verdicts is
2 prohibitive.

3 Allowing Mikhail and Marina Gelman to proceed to trial in the Superior Court would resolve
4 the Gelmans' claims which have been pending since January 2017. It would advance the goals of
5 this bankruptcy far better than a stayed, stagnant proceeding. It would help with the imperfect
6 method of estimating claims that must be done by the Bankruptcy Court. As the Gelmans have
7 already explained in their moving papers, the factors set out in *In re Curtis*, 40 B.R. 795, 800 (Bankr.
8 D.Utah 1984) (the "*Curtis* factors") weigh heavily in favor of relief from stay. In its Memorandum
9 Decision on the Gelmans' motion the Court stated it was satisfied the Gelmans had shown prima
10 facie cause for relief from stay. The Gelmans have now shown that because of Mikhail Gelman's
11 age and health, he is entitled to preference in the Superior Court action. The Court earlier stated the
12 Gelmans' motion was a close call. With this showing it is no longer close. Justice requires the
13 Gelmans be granted relief from stay.

14
15 Dated: August 20, 2019

LAW OFFICES OF BORIS E. EFRON

16
17 /s/ David W. Wessel

18 Attorneys for Creditors
19 Marina Gelman and Mikhail Gelman
20
21
22
23
24
25
26
27
28